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U.S. DISTRICT COURT

LISA ANN FIXEL
5091 Loomis Lane
Kearns, Utah 84118

FILED
U.S. DISTRICT COURT

2008 OCT 14 P 5:47

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

LISA ANN FIXEL,
Plaintiff,

vs.

THE STATE OF UTAH,
Defendant

CIVIL RIGHTS VIOLATIONS

42 U.S.C. 1983

42 U.S.C. 1985

The above matter came duly before the Third District
Juvenile Court.

A. JURISDICTION

1. Jurisdiction is proper in this court pursuant to:

a. 42 U.S.C. 1983

b. 42 U.S.C. 1985

Case: 2:08cv00797

Assigned To : Benson, Dee

Assign. Date : 10/14/2008

Description: Fixel v. State of Utah

2. Name of the plaintiff- Lisa Ann Fixel
Is a citizen of the state of Utah.

Present mailing address: 5091 Loomis lane
Kearns, UT 84118

3. FIRST DEFENDANT: Debbie Scoville D.C.F.S

Is a citizen of the state of Utah and is employed as a case
worker for D.C.F.S

Debbie Scoville was acting under the "Color of State Law" at the
time.

Debbie Scoville was the defendants Dependency Drug Court case
worker for Honorable Robert Yeates in the 3rd District Juvenile
Court.

4. SECOND DEFENDANT: Judge Robert Yeates 3rd District Juvenile
Court.

Is a citizen of the state of Utah.

And was employed as a Judge in the 3rd District Juvenile court.

1 Judge Robert Yeates was acting under the "Color of State Law" at
2 the time these claims occurred.

3 Judge Robert Yeates was the Defendants Judge upon termination of
4 defendant's parental rights.

5 5. THIRD DEFENDANT: John Doe 1-10.

6 6. FORTH DEFENDANT: Utah Alcohol Foundation aka House of Hope.

7 Lisa Heaton

8 Kathleen Mezley

9 Martha Burkett/Fallis

10 Is a citizen of the state of Utah and are employed as staff
11 at the House of Hope.

12 House of Hope is a substance abuse treatment facility for women
13 and children ran by corporate office of the "UTAH ALCOHOL
14 FOUNDATION".

15 B. NATURE OF THE CASE.

16 Plaintiffs "Parental Rights" were terminated with excess Bias
17 and Discrimination.

18 Due process was incomplete and without best interests for the
19 children.

20 Equal protection of the law was not enforced. Conspiracy of
21 public officials such as D.C.F.S., Attorney Ad Litem, Judge
22 Robert Yeates and H.O.H. staff.

23 Plaintiffs Constitutional Rights were violated.

24 Parental Rights were terminated stating that plaintiff had brain
25 damage. Court was bias during trial. Judge stated that plaintiff
was a "waste of time and money". Court changed attorneys on
defendant with an extension to accommodation of change of legal
defense. Court waived plaintiff's confidentiality rights to
allow House of Hope staff to testify for another House of hope
staff that was subpoenaed to court. Kathleen Mezley did a
contempt of court with a no show.

Court allowed adoption procedures without determining paternity
on Joston Jovon Fixel.

1 Conspiracy with H.O.H. staff and Debbie Scoville D.C.F.S for
2 unsuccessful termination of the treatment program. Defendants
3 did not inform Plaintiff of termination. D.C.F.S. failed to
follow through with court ordered treatment.

4 Due process in termination of Parental rights was unlawful.
5 Failed to follow through procedures with plaintiff such as
6 insufficient removal and review, Plaintiff was incarcerated
7 during the family safety plan. Plaintiff was unaware of or had
not attended this meeting. Safety plan should have been amended
due to different circumstances with Plaintiff and court order.

8 On or about June 5th, Plaintiff and Fixel/Rosenbaum Children were
9 discharged from treatment facility to unsafe home. Debbie
Scoville defendant had set up Plaintiff for failure.

10 Defendant Mrs. Scoville proceeded to the staff of "House of
11 Hope" and requested that plaintiff be released due to Housing.
Housing made an agreement with Plaintiff upon completion of
12 residential treatment in May 16, 2005.

13 House of Hope was aware of this arrangement with housing.
14 Failure to follow through with letters by both parties resulted
termination of plaintiffs housing agreement.

15
16 Parental Rights were terminated due to conclusion of treatment
at House of Hope Completion. Third district Judge Robert Yeates
17 of family drug dependency court was incompetent and was coerced
to terminate parental rights of the plaintiff by D.C.F.S.

C.CAUSE OF ACTION

a. COUNT 1-CONFLICT OF INTEREST

Judge Valdez was original judge assigned. Due to conflict of interest Plaintiff was reassigned to a new judge.

Mrs. Scoville stated to plaintiff that "Her and her husband were considering adoption and not to say anything to anyone in treatment, for she didn't want anyone to think she was taking kids away for that reason".

b. COUNT 2-SUBSTITUTE WITNESS/ADMISSABLE EVIDENCE

Lisa Heaton's testimony was worthless and incompetent due witness not being on the witness list.

Kathleen Mezley plaintiff's children counselor was not present and court proceeded with Lisa Heaton's testimony. Miss Mezley was supposed to court. No show.

c. COUNT 3-INSUFFICIENT MEDICAL TREATMENT

Arianna tested positive for lead. No medical follow up on lead poisoning by state or House of Hope facility. Room plaintiff occupied at facility was tested and was positive for lead. Also Sierra Rosenbaum resided in this room at facility and follow up or test for lead was conducted.

d. COUNT 4-PATERNITY OF JOSTON FIXEL NOT ESTABLISHED

Rights of father- good faith search for father
Bi-logical birth-father's consent to adoption

COUNT 5-CONFIDENTIALITY RIGHTS WAIVED

Plaintiff's confidential rights were waived due to confidentiality form being expired. Judge stated "It won't cause conflict to House of Hope recruiting new clients."

COUNT 6-CONSPIRACY OF STATE OFFICIALS "COLOR OF LAW".

Misuse of power by state officials.
Termination of Parental Rights of Plaintiff.
Mrs. Scoville had Plaintiff discharged from Treatment for housing reasons. HoH decided it was "Unsuccessful discharge".

COUNT 7-DUE PROCESS OF LAW

Defendants violated by Utah Department of Services Policy and procedure.

e. COUNT 8-EQUAL PROTECTION OF LAW/DUE PROCESS

Violations of 42 U.S.C. § 1983 which prohibits persons acting under the color of state law from depriving someone their rights under the constitution.

f. COUNT 7-NEGLIGENCE

Injury to Arianna Rosenbaum. Arianna's arm was fractured and was not treated. Trauma unit at University of Utah Trauma unit estimated fracture anywhere from 7-10 days old. Lack of care from responsible party. Arianna was in a foster home.

g. COUNT 10-FEDERAL LARCENY/ KIDNAPPING

Conspiracy between state official determining request for termination of parental rights.

h. COUNT 11-INSUFFICIENT EVIDENCE OF ABUSE AND/OR NEGLECT

Evidence beyond a reasonable doubt of abuse and or neglect.

i. COUNT 12-LIBEL AND SLANDER

"Possible brain damage" was stated by therapist.
No medical reports of brain damage verified by any source.

D.FINDINGS OF FACT

Expediting termination of parental rights was unlawful due process of Federal adoption procedures statute of children must be in states custody 14 months to 24 months.

Defendant Mrs. Scoville was unable to conduct professional standards and comply with all applicable laws with Plaintiffs service plan.

Defendants have inconclusively violated good client relations and defendants trust.

Also, Defendant, Debbie Scoville D.C.F.S didn't follow procedures personal work ethics under policy and procedures

Code of Ethics of Utah Department of Human Services Section 1-6
"Accurate and complete information regarding the extent and nature of the department services available to them."

A. Employee will obey applicable civil and criminal laws, regulations, rules or policy governing their or professional activities.

B. Jeopardize the health or safety of clients.

C. Performance of duties, employees shall:
Not participate in, condone, conceal or be associated with dishonesty, fraud, misrepresentation or theft.

D. Not purposely withhold from clients, accurate and complete information regarding the extent and nature of the Department services.

Plaintiff was not present with original service plan. Plaintiff was incarcerated during the formal family team meeting. Plaintiff was unaware of time limit of placement with the state.

HOH stated "plaintiff remained drug free on dependency review and said she was doing really well," in June 2005.

Fact is Plaintiff was not drug free due to prescribed "Zoloft" which is used as an antidepressant. Zoloft is actually a barbiturate and alters your thinking.

1 Substitute witness is a not admissible and or relevant of case.
2 Compulsory process obtaining witness in his favor.

3 Plaintiffs originally assigned court appointed attorney was
4 Cherri Stringham, Lokken and associates.

5 Cheri Stringham was replaced by Russell Patriga. Plaintiff's
6 attorney Russell Petriga violated plaintiff's due process of law
7 by not requesting an extension from the court. Russell Petriga
8 was assigned to plaintiff 2 weeks prior to plaintiff's trial.

9 Later Plaintiff requested files from Lokken and Associates and
10 was told that Cherry Stringham had left the firm. Reason is
11 unknown.

12 In conclusion plaintiff was told change to defense was due to
13 courts having to "switch" attorneys due to attorneys building
14 relationships with the judge.

15 Rule 314-604 has factors to be considered in imposing sanctions.
16 Sanction request for Gregory Wall. Mr. Wall accepted money to
17 represent plaintiff for representation. Mr. Wall failed to
18 proceed with conclusion letter and was "keeping the funds for
19 research".

20 Disciplinary procedures such as sanction of "Wall to Wall" firm
21 for lack of Due Process of appeal. Completion upon agreement of
22 case # 2005094. Mr. Gregory Wall had agreed on filing for
23 Defendant in the Appellant court.

24 Plaintiff's substantial compliance with the "Service plan"
25 awarded the plaintiff the reward of the Fixel\Rosenbaum children
to be returned to the plaintiff on September 19, 2005.

Mrs. Scoville contacted Plaintiff on September 16, 2005, she
stated "Lisa you need to go U.A. and bring proof of your job to
trial Monday and the kids will be coming home."

Conclusion of the law

State court wrongly decided the issues before it. Violation of
Civil rights of defendant. 42 U.S.C § 1983 & 42 U.S.C § 1985.

Request for Relief

Immunity of state officials involved due to violation of ethic codes.

Immunity of state officials violation of constitution of the United States.

Federal court is asked to set aside order of termination of parental rights and adoption of Fixel/Rosenbaum children.

Award of damage of the deprivation of civil rights of constitutional right to be a parent to be 7 million dollars. Due to mental injuries plaintiff may require costly future medical expenses.

WHEREFORE, Plaintiff demands Adoption of Joston Jovon Fixel, Sierra Rain Rosenbaum, and Arianna Dawn Rosenbaum nullified and reprimanded. Plaintiff demands return of her children.

LISA ANN FIXEL

October 10, 2008